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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,401	03/07/2002	Reiko Noda	220472US2SRD	8619
22850 7590 08/28/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER NEWLIN, TIMOTHY R	
			ART UNIT 2623	PAPER NUMBER
			NOTIFICATION DATE 08/28/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

Application No.

10/091,401

Applicant(s)

NODA ET AL.

Examiner

Timothy R. Newlin

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :3/7/2002, 6/7/2004, 8/16/2005, 7/7/2006, 3/9/2007.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Objections***

2. Claim 3 is objected to because its fifth limitation is punctuated with a period rather than a semicolon. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 16-18 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Flickinger, U.S. Pub. No. 2005/0210502.

5. Regarding claims 16, 18, and 22, Flickinger discloses a content playback method of playing back content data transferred over network from at least one content distribution device, the method comprising:

inputting a time based order regarding playback of a piece of the content data and scene descriptive information to specify whether the content data is download type data or stream type data **[metadata and splicing\_timing encoder 815 inputs descriptive data to the STB, which then determines a time based order, Fig. 8, paras. 88, 90; descriptive data determines whether ads are downloaded or buffered (i.e. streamed), para 72]**; and

requesting the content distribution device to prepare transferring a subsequent piece of the content data of the stream type data based on the scene descriptive information **[ad insertion module 904 requests next ad, para. 95]**.

6. Regarding claim 17, Flickinger discloses a content playback method according to claim 16, wherein requesting the content distribution device requests the content distribution device to prepare transferring only content data belonging to a block immediately after in time a block belonging to content data under playback when only download type object is played back **[scheduler 912 queues the next ad to be inserted; ad storage unit 914 transfers next downloaded ad, para. 93]**.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-15 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flickering et al, U.S. Pub. No. 2005/0210502 in view of Eldering et al., U.S. Patent No. 6,704,930.

9. Regarding claims 1 and 21, Flickinger discloses a content playback method of playing back content data transferred over network from at least one content distribution device, the method comprising:

inputting scene descriptive information to specify a time based order regarding playback of content data **[ad tag describes the segment and specifies when to display the ad, paras. 73, 74, 78; scheduler 912, Fig. 9];**

receiving and playing back a piece of the content data according to the scene descriptive information **[ads are received and played based on metadata describing ad characteristics, paras. 66-68, 72; Fig. 4];**

Flickinger does not discuss measuring available bandwidth or using bandwidth data in a determination. However, Eldering does show measuring an available bandwidth of the network **[col. 2, 12-15]** and

requesting the content distribution device to transfer a subsequent piece of the content data based on the scene descriptive information when the available bandwidth exists **[col. 5, 37-47, 60-67]**.

Flickinger invokes bandwidth concerns in, mentioning the need for a high-bandwidth channel to transmit ads **[para. 52]**. Eldering, while focusing on bandwidth considerations, discusses several methods of ad insertion, including downloading ads to storage **[col. 2, 5-11]**. Given that Flickinger describes the high-bandwidth needs of ad transport, one of ordinary skill would have found it obvious to modify Flickinger to account for limited bandwidth capacity, in order to avoid transmission errors in a real-time system. Such a modification of Flickinger ensures that only ads that are within the available capacity are processed so viewers will not see a blank or otherwise distorted picture.

10. Regarding claim 3, Flickinger discloses a content playback method of playing back content data transferred over a network from at least one content distribution device, the method comprising:

transferring a scene description file from the content distribution device to a client terminal according to a file transfer requested by a user **[ad ID tables are transferred from the distributor to STBs, para. 81; also see paras. 73, 74]**;

downloading download type objects included in the block from the content distribution device to the client terminal **[STB stores ads without buffering, i.e. downloads from the head end, Fig. 4, paras. 70, 71]**;

taking in stream type objects included in the file from the content distribution device to the client terminal **[program stream, Fig. 9; para. 93];**

playing back a block including the stream type objects and download type objects **paras. 66, 95].**

examining whether a block to be played back next exists **[STB examines metadata regarding timing information and when the ad should be inserted, paras. 85 and 91],**

requesting the content distribution device to transfer a stream type object existing in the block to be played back next **[subscriber may select a stream to be displayed, para. 93];**

buffering the stream type object to be played back next **[step 415, Fig. 4].**

Flickinger does not discuss measuring available bandwidth or using bandwidth data in a determination. However, Eldering does show measuring an available bandwidth of the network **[col. 2, 12-15]** and

requesting the content distribution device to transfer a subsequent piece of the content data based on the scene descriptive information when the available bandwidth exists **[col. 5, 37-47, 60-67].**

Flickinger invokes bandwidth concerns in, mentioning the need for a high-bandwidth channel to transmit ads **[para. 52].** Eldering, while focusing on bandwidth considerations, discusses several methods of ad insertion, including downloading ads to storage **[col. 2, 5-11].** Given that Flickinger describes the high-bandwidth needs of ad transport, one of ordinary skill would have found it obvious to modify Flickinger to



account for limited bandwidth capacity, in order to avoid transmission errors in a real-time system. Such a modification of Flickinger ensures that only ads that are within the available capacity are processed so viewers will not see a blank or otherwise distorted picture.

With respect to the limitation of simultaneous playback, Eldering discloses a method of synchronous insertion wherein ads are simultaneously inserted in each program stream **[col. 1, 61-65]**.

11. Regarding claim 5. A content playback apparatus which plays back content data transferred over a network from at least one content distribution device, the apparatus comprising:

an input device which inputs scene descriptive information to specify a time based order regarding playback of content data **[metadata and splicing\_timing encoder 815 inputs descriptive data to the STB, which then determines a time based order, Fig. 8, paras. 88, 90]**;

a playback device which receives and plays back a piece of the content data according to the scene descriptive information **[ad insertion module 904, Fig. 9, paras. 66, 95]**;

Flickinger does not discuss measuring available bandwidth or using bandwidth data in a determination. However, Eldering does show measuring an available bandwidth of the network **[col. 2, 12-15]** and

requesting the content distribution device to transfer a subsequent piece of the content data based on the scene descriptive information when the available bandwidth exists **[col. 5, 37-47, 60-67]**.

Flickinger invokes bandwidth concerns in, mentioning the need for a high-bandwidth channel to transmit ads **[para. 52]**. Eldering, while focusing on bandwidth considerations, discusses several methods of ad insertion, including downloading ads to storage **[col. 2, 5-11]**. Given that Flickinger describes the high-bandwidth needs of ad transport, one of ordinary skill would have found it obvious to modify Flickinger to account for limited bandwidth capacity, in order to avoid transmission errors in a real-time system. Such a modification of Flickinger ensures that only ads that are within the available capacity are processed so viewers will not see a blank or otherwise distorted picture.

12. Regarding claims 2, 4, 15, and 20, Flickinger discloses a content playback method wherein requesting the content distribution device includes requesting the content distribution device to prepare transferring only content data belonging to a block immediately after in time a block belonging to content data under playback when only download type object is played back **[scheduler 912 queues the next ad to be inserted; ad storage unit 914 transfers next downloaded ad, para. 93]**.

13. Regarding claims 6 and 11, Eldering discloses a content playback apparatus wherein the transfer request device requests the content distribution device to transfer the subsequent piece of the content data with a transfer rate not more than the available bandwidth **[col. 5, 37-47, 60-67]**.

14. Regarding claims 7 and 12, Flickinger discloses a content playback apparatus wherein the transfer request device requires the content distribution device to transfer only the piece of the content data which is stream type data **[ad data is encoded onto an ad channel program stream to be transferred to the STB, col. 6, 37-45; also see Eldering, col. 2, 6-8]**.

15. Regarding claims 8 and 13, Flickering discloses a content playback apparatus wherein the transfer request device requires the content distribution device to transfer the subsequent piece of the content data corresponding to a given amount capable of starting the playback **[subsequent ad is buffering is used while the STB determines whether to store the ad for playback, paras. 71, 74, 87]**.

16. Regarding claims 9 and 14, Flickinger discloses a content playback apparatus wherein the transfer request device determines a playback finish time of the piece of the content data under playback based on the scene descriptive information, and requests the content distribution device to complete transferring the subsequent piece of the content data of a given amount capable of starting the playback by an playback finish

time **[STB examines metadata including end time of each ad such that ad can complete playback within splice points, para. 85].**

17. Regarding claims 10 and 19, Eldering and Flickinger disclose a content playback apparatus wherein the transfer request device divides a singular data or a plurality of content data corresponding to the scene descriptive information into a singular block or a plurality of blocks including objects to be played back simultaneously **[Eldering col. 1, 61-65]**, and requests the content distribution device to transfer only content data belonging to a block immediately after in time a block belonging to content data under playback **[scheduler 912 queues the next ad to be inserted, Flickinger para. 93].**

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Zigmond, US 6,698,020; Paxton, US 2004/0158858; Belknap, US 5,586,264; Dan, US 5,787,472.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F 9-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TRN



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